

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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ANN MARIE RUDD, MATTHEW ROACH,  
MELISSA LONGO, JENNIFER DOTY, and  
GARRETT TITCHEN,

Plaintiffs,

v.

10-CV-0591

T.L. CANNON CORP., d/b/a Applebees,  
T.L. CANNON MANAGEMENT CORP.,  
TLC WEST, LLC, TLC CENTRAL, LLC,  
TLC UTICA, LLC, TLC EAST, LLC, TLC  
NORTH, LLC, DAVID A. STEIN, MATTHEW  
J. FAIRBAIRN, and JOHN A. PERRY,

Defendants.

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THOMAS J. McAVOY  
United States District Judge

**DECISION and ORDER**

This matter is brought pursuant to the Fair Labor Standards Act (FLSA), 29 U.S.C. § 201, and was referred to the Hon. David E. Peebles, United States Magistrate Judge, for a Report-Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c).

No objections to the January 4, 2011 Report-Recommendation have been raised. After examining the record, this Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice. Accordingly, this Court adopts the Report-Recommendation for the reasons stated therein.

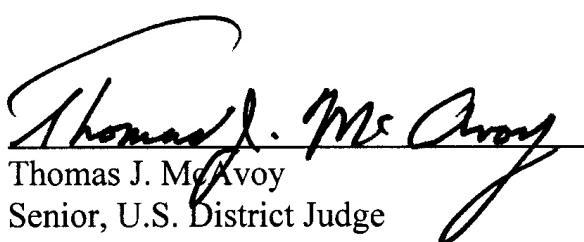
It is, therefore, ORDERED that:

- (1) Certification of this action as a collective action for purposes of the FLSA is GRANTED IN PART, as stated in Judge Peebles' Report-Recommendation;

- (2) Plaintiffs' motion for class certification under Federal Rule of Civil Procedure 23 with regard to the claims under New York Labor Law are DENIED without prejudice;
- (3) Plaintiffs are permitted to engage in discovery initially focusing upon the Rule 23 certifications issues; and
- (4) The parties negotiate and submit to the Court, within thirty days, either a form collective action notice acceptable to both parties or, alternatively, counter-proposed language for inclusion in such a notice.

IT IS SO ORDERED.

Dated: March 3, 2011



Thomas J. McAvoy  
Senior, U.S. District Judge